

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

ALBERTO TRAPAGA,)
Petitioner,)
) CA #04-12599-NMG
v.)
)
BRUCE CHADBOURNE, Interim)
Director, Bureau of Immigration and)
Customs Enforcement, ROBERT)
MURPHY, Superintendent of the Nemasket)
Correctional Center, and KATHLEEN)
DENEHY, Commissioner of the)
Massachusetts Department of Corrections,)
Respondents.)

**RESPONDENT, BRUCE CHADBOURNE'S MOTION TO DISMISS FOR LACK OF
SUBJECT MATTER JURISDICTION AND FOR FAILURE TO STATE A CLAIM
UPON WHICH RELIEF MAY BE GRANTED**

The Respondent Bruce Chadbourne hereby moves, pursuant to Fed. R. Civ. P. 12(b)(1) and (6), to dismiss this claim on the ground that this Court lacks subject matter jurisdiction and on the ground that the petition fails to state a claim upon which relief may be granted.

In support of the motion, the Respondent submits the attached memorandum of law.

Wherefore, the Respondent requests that the Petition be dismissed.

Respectfully submitted,

MICHAEL SULLIVAN
United States Attorney

/s/ Mark J. Grady

Mark J. Grady, Assistant U.S. Attorney
John J. Moakley Courthouse
One Courthouse Way, Suite 9200
Boston, MA 02210
(617) 748-3136

Certificate of Compliance with L.R. 7.1

The United States takes the position that Local Rule 7.1 requires "counsel" to confer and, as the Petitioner is pro se, is therefore inapposite. Notwithstanding, as the Petitioner is a sexually dangerous person presently committed to the custody of the Commonwealth of Massachusetts, the Respondent requests leave to file the motion without a Rule 7.1 conference.

/s/ Mark J. Grady
Mark J. Grady
Assistant United States Attorney

Certificate of Service

IT IS HEREBY CERTIFIED that on this _31st day of January 2005, service of the foregoing Memorandum has been made upon the Petitioner by first class mail.

/s/ Mark J. Grady
Mark J. Grady
Assistant United States Attorney